IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No. 812

THE CITY OF NEW ORLEANS,

Appellant,

versus

EARL BENJAMIN BUSH, ET AL.,

Appellees.

Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division.

MOTION TO AFFIRM

SAMUEL I. ROSENBERG,
747 National Bk. of Comm. Bldg.,
New Orleans, Louisiana,
Attorney for Orleans Parish School Board; Board Members,
LOUIS G. RECKE,
LLOYD J. RITTINER,
MATTHEW R. SUTHERLAND,
THEODORE H. SHEPARD, JR.,
and; Superintendent of Schools for Orleans Parish,
DR. JAMES F. REDMOND,
Appellees.

HAUSER PRINTING CO., INC., NEW ORLEANS

IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No. 812

THE CITY OF NEW ORLEANS,

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versus

EARL BENJAMIN BUSH, ET AL.,

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Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division.

MOTION TO AFFIRM

Appellees move to affirm the judgment below on the ground that it is manifest that the questions on which the decision of this cause depend are so unsubstantial as not to need further argument.

OPINION BELOW

This is an Appeal from the opinion filed December 21, 1960 by the United States District Court for the Eastern District of Louisiana, New Orleans, Division, sitting as a statutory three Judge Court. The opinion and the temporary injunction, which was issued on the same date, are printed in the Jurisdictional Statement filed herein by Appellants (Appendix A, pp. 12-26).

REASONS FOR GRANTING THE MOTION

The instant appeal is an appeal from the same opinion of the District Court, from which an appeal was taken by the Legislature of Louisiana in the matter styled, *The Legislature of Louisiana, et als. vs. Earl Benjamin Bush, et als.*, No. 706, October Term, 1960. In a *per curiam* decided March 20, 1961, this Court granted a Motion to Affirm filed therein by Earl Benjamin Bush, et al., Appellees. *Orleans Parish School Board et al.*, and the *Legislature of Louisiana, et al., vs. Earl Benjamin Bush, et al.*, Nos. 589, 613 and 706, October Term, 1960.

In the same *per curiam*, the judgment here being appealed from was affirmed.

Since, in the appeal perfected by the Legislature of Louisiana (No. 706, October Term, 1960), the Court has already affirmed the judgment herein appealed from, it is manifest that the questions on which the decision of this appeal depend are so unsubstantial as not to need further argument and this motion to affirm should be granted.

Respectfully Submitted,

SAMUEL I. ROSENBERG,
747 National Bk. of Comm. Bldg.,
New Orleans, Louisiana,
Attorney for Orleans Parish School Board; Board Members,
LOUIS G. RIECKE,
LLOYD J. RITTINER,
MATTHEW R. SUTHERLAND,
THEODORE H. SHEPARD, JR.,
and; Superintendent of Schools for Orleans Parish,
DR. JAMES F. REDMOND,
Appellees.

PROOF OF SERVICE

I, Samuel I. Rosenberg, Attorney for the Orleans Parish School Board; Board Members: Louis G. Riecke, Lloyd J. Rittiner, Matthew R. Sutherland and Theodore H. Shepard, Jr., and Superintendent of Schools for the Parish of Orleans, Dr. James F. Redmond, Appellees herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the ..... day of April, 1961, I served copies of the foregoing Motion to Affirm on the several parties hereto as follows:

On Earl Benjamin Bush, et al., by mailing a copy in a duly addressed envelope with first class postage prepaid to A. P. Tureaud, Esquire, 1821 Orleans Avenue, New Orleans 16, La.

On Jack P. F. Gremillion, A. P. Tugwell, Shelby M. Jackson, Members of the State Board of Education and Roy M. Theriot, by mailing a copy in a duly addressed envelope with first class postage prepaid to Jack P. F. Gremillion, Esquire, Attorney General, State Capitol, Baton Rouge, Louisiana.

On Whitney National Bank in New Orleans, by mailing a copy in a duly addressed envelope with first class postage prepaid to J. Raburn Monroe, Esquire, Whitney Bank Building, New Orleans, Louisiana.

On Hibernia National Bank of New Orleans, by mailing a copy in a duly addressed envelope with first class postage prepaid to Louis B. Claverie, Esquire, Hibernia Bank Building, New Orleans, Louisiana.

On National American Bank of New Orleans, by mailing a copy in a duly addressed envelope with first class postage prepaid to Clem H. Sehrt, Esquire, Pere Marquette Building, New Orleans, Louisiana.

On National Bank of Commerce in New Orleans, by mailing a copy in a duly addressed envelope with first class postage prepaid to George Denegre, Esquire, National Bank of Commerce Building, New Orleans, La.

On City of New Orleans, by mailing a copy in a duly addressed envelope with first class postage prepaid to Alvin J. Liska, Esquire, City Attorney, City Hall, New Orleans, Louisiana.

On the Legislature of Louisiana and Edward Lebreton, et als., by mailing a copy in a duly addressed envelope with first class postage prepaid to W. Scott Wilkinson, Esquire, P. O. Box 1707, Shreveport, Louisiana.

On the United States of America, by mailing a copy in a duly addressed envelope with first class postage prepaid to M. Hepburn Many, Esquire, United States Attorney, Federal Building, New Orleans, La., and with Air Mail Postage Prepaid to the Solicitor General, Department of Justice, Washington, D. C.

Samuel I. Rosenberg

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